

Message Text

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ACTION ARA-20

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DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10 PA-04

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R 192121Z OCT 73

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 6249

INFO USMISSION GENEVA

USMISSION USUN NEW YORK

C O N F I D E N T I A L SANTIAGO 5124

E.O. 11652: GDS

TAGS: CI, PINT, PINS, MILI, SOCI

SUBJECT: HUMAN RIGHTS IN CHILE

1. SUMMARY: I TOOK ADVANTAGE OPPORTUNITY OCT 18 TO REMIND MINISTER JUSTICE OF USG CONCERN FOR RESPECT OF HUMAN RIGHTS. MINISTER INDICATED GOC SHARES CONCERN AND EXPRESSED VIEW THAT CRIMES COMMITTED PRIOR SEPT 11 BY THOSE PERSONS NOW UNDER DETENTION IN CHILE WILL BE HANDLED BY ORDINARY JUSTICE THROUGH CIVILIAN COURTS WHILE ONLY CRIMES COMMITTED AFTER THAT DATE WILL BE TRIED BY MILITARY TRIBUNALS UNDER CODE OF MILITARY JUSTICE. THIS EXCHANGE OF COURSE TOOK PLACE IN CONFIDENCE. END SUMMARY

2. DURING COURSE OF COURTESY CALL ON NEW MINISTER OF JUSTICE GONZALO PRIETO OCT 18, HE LAMENTED POOR CHILEAN PUBLIC IMAGE IN U.S. AND SENATOR KENNEDY'S INVOLVEMENT WITH ISSUE OF HUMAN RIGHTS IN CHILE. AFTER EXPLAINING THE SENATOR'S RESPONSIBILITIES IN THIS AREA, I MADE CLEAR TO THE MINISTER THAT RESPECT FOR HUMAN RIGHTS IS A MATTER OF SERIOUS CONCERN TO USG AS WELL AS U.S. CONGRESS. PRIETO SAID HE UNDERSTOOD AND COULD ASSURE ME THAT GOVERNMENT JUNTA FULLY SHARES THIS CONCERN. HE SAID THAT

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IN A RECENT CABINET MEETING GENERAL PINOCHET HAD MADE THIS

CONCERN EXPLICIT TO OTHER MEMBERS OF THE CABINET.

3. IN RESPONSE TO MY QUESTION ABOUT MILITARY TRIBUNALS, THE MINISTER OBSERVED THAT THEIR USE IS CUSTOMARY IN CHILE DURING PERIODS OF STATE OF SIEGE AND THAT THEY ARE OPERATING UNDER MILITARY CODE OF JUSTICE DATING BACK TO 1925 WHICH HAS BEEN EMPLOYED AT VARIOUS TIMES SINCE THEN. HE WAS AT SOME PAINS TO POINT OUT THAT PRESS STORIES TO THE EFFECT THAT MILITARY TRIBUNALS ARE REQUIRED TO HAND DOWN SENTENCES WITHIN 48 HOURS ARE FALSE. THE CODE ONLY REQUIRES THAT THE PROSECUTION CASE BE PRESENTED WITHIN 48 HOURS BUT EVEN THAT IS SUBJECT TO EXTENSION.

4. PRIETO WENT ON TO POINT OUT THAT THE MILITARY TRIBUNALS WILL TRY ONLY CASES OF PERSONS ACCUSED OF CRIMES COMMITTED AFTER ENTRY INTO EFFECT OF STATE OF SIEGE ON SEPT 11. HOWEVER, CHARGES FOR CRIMES COMMITTED PRIOR TO SEPT 11 WILL BE REMANDED TO CIVILIAN CRIMINAL COURTS FOR TRIAL BY ORDINARY JUSTICE.

5. COMMENT: I AM CONFIDENT THAT PRIETO WAS PERFECTLY SINCERE IN DRAWING THE DISTINCTION BETWEEN HANDLING OF CASES INVOLVING CRIMES COMMITTED BEFORE AND AFTER SEPT 11. HOWEVER, I AM NOT ENTIRELY SURE WHETHER HE WAS VOICING HIS OWN RECOMMENDATION AS TO HOW THESE CASES OUGHT TO BE HANDLED OR WAS REFLECTING A JUNTA DECISION ALREADY MADE. IN ADDITION, IT IS HIGHLY LIKELY THAT SIGNIFICANT PERSONAGES IN THE UP GOVERNMENT GUILTY OF CRIMES UNDER CHILEAN LAW FOR ACTS COMMITTED PRIOR TO SEPT 11 MAY WELL HAVE BEEN INVOLVED IN ACTS ON SEPT 11 AND SUBSEQUENTLY WHICH, EVEN UNDER PRIETO'S INTERPRETATION, COULD MAKE THEM SUBJECT TO TRIAL BY MILITARY TRIBUNAL.
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